

Message Text

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L-03 NSAE-00 PA-01 SP-02 SS-15 ACDA-12 TRSE-00
IO-13 NSCE-00 SSO-00 USIE-00 INRE-00 /075 W
-----021296 082121Z /73

O R 082024Z MAR 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 6547
INFO USMISSION USBERLIN
AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 04 BONN 04236

E.O. 11652: GDS
TAGS: PGOV BQG
SUBJECT: REPLY TO SOVIET DEMARCHES ON FRG
ACTIVITIES IN BERLIN

REFS: (A) STATE 58571; (B) USBER 525; (C) BONN 3890;
(D) USBER 159; (E) USBER 96; (F) 77 USBER 3034

BEGIN SUMMARY. EXCEPT FOR ONE BRACKETED PASSAGE, THE
BONN GROUP REACHED AD REF AGREEMENT ON AN ALLIED REPLY
TO THE THREE RECENT SOVIET COMPLAINTS CONCERNING
OBJECTIONABLE FRG ACTIONS IN BERLIN. THE DEPARTMENT'S
POSITION WAS ACCEPTED IN DEVELOPMENT OF COMPROMISE LANGUAGE
AIMED AT MEETING THE FRG DESIRE TO ARGUE THAT ACTIVITIES
NOT PROHIBITED BY THE QUADRIPARTITE AGREEMENT WERE
PERMITTED. ACTION REQUESTED: APPROVAL OF THE AD REF
TEXT. END SUMMARY.

1. THE BONN GROUP ON MARCH 8 CONSIDERED A BRITISH
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REVISION OF THE DRAFT ALLIED REPLY TO THE SOVIET
DEMARCHES OF NOVEMBER 29, 1977, AND JANUARY 11 AND 18,
1978 (REFS D, E AND F). AD REF AGREEMENT WAS REACHED ON
THE FOLLOWING TEXT, EXCEPT FOR THE BRACKETED
PORTION IN PARAGRAPH FIVE OF THE TEXT:

BEGIN TEXT

1. ON 29 NOVEMBER YOU MADE A STATEMENT TO THE THEN CHAIRMAN POLITICAL ADVISER IN WHICH YOU SPOKE OF VARIOUS EVENTS WHICH HAD TAKEN PLACE IN THE WESTERN SECTORS OF BERLIN WHICH YOU DESCRIBED AS ATTEMPTS AT ALTERING THE SPECIAL STATUS OF THE WESTERN SECTORS OF BERLIN. ON 11 AND 18 JANUARY YOU MADE SIMILAR COMPLAINTS ABOUT OTHER EVENTS IN BERLIN.

2. I AM INSTRUCTED FIRSTLY TO REMIND YOU THAT THE THREE ALLIED POWERS HAVE RECENTLY POINTED OUT (IN THEIR REPLIES TO YOUR DEMARCHE OF 28 OCTOBER 1977 ABOUT MEETINGS IN BERLIN OF THE EUROPEAN PARLIAMENTARY ASSEMBLY) THAT THE WESTERN SECTORS OF BERLIN DO NOT HAVE A "SPECIAL STATUS." I NEED ONLY REAFFIRM THAT POSITION.

3. SECONDLY, YOU SUGGESTED ON 29 NOVEMBER THAT THE EXTENSION OF FEDERAL LEGISLATION TO BERLIN WAS "ILLEGAL" BECAUSE SUCH LEGISLATION REFERRED TO "LAND BERLIN." AS YOU ARE AWARE, THE LETTER OF 3 SEPTEMBER 1971 FROM THE THREE AMBASSADORS TO THE CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY, OF WHICH THE SOVIET AMBASSADOR TOOK NOTE, CONFIRMED THAT THE ESTABLISHED PROCEDURES CONCERNING THE APPLICABILITY TO THE WESTERN SECTORS OF BERLIN OF LEGISLATION OF THE FEDERAL REPUBLIC OF GERMANY SHALL REMAIN UNCHANGED. THE TERM LAND
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BERLIN, DERIVING AS IT DOES FROM THE CONSTITUTION ADOPTED BY THE BERLIN DEPUTIES IN 1949 (AS MODIFIED BY THE RESERVATIONS OF THE ALLIED KOMMANDATURA EXPRESSED IN BK/O(50)75), DOES NOT IMPLY THAT BERLIN IS A LAND OF THE FEDERAL REPUBLIC OF GERMANY.

4. THIRDLY, YOU REFERRED TO "INADMISSIBLE DECLARATIONS" BY OFFICIALS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY. IN THIS CONNECTION I WOULD REMIND YOU OF THE STATEMENT MADE IN BERLIN ON 3 OCTOBER 1977 BY THE FEDERAL CHANCELLOR AND OF THE COMPREHENSIVE STATEMENT ON BEHALF OF THE FEDERAL GOVERNMENT MADE BY MINISTER OF STATE VON DOHNANYI ON 25 NOVEMBER 1977. AS YOU ARE AWARE THE GOVERNMENT OF

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O R 082024Z MAR 78
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THE FRG IN THESE STATEMENTS REEMPHASIZED ITS FULL RESPECT
FOR THE RELEVANT DECISIONS OF THE THREE POWERS WHICH ARE
ALSO REFLECTED IN THE QUADRIPARTITE AGREEMENT.

5. FOURTHLY, REGARDING THE EVENTS IN BERLIN OF
WHICH YOU HAVE COMPLAINED, I AM INSTRUCTED TO DRAW YOUR
ATTENTION TO THE FACT THAT NONE OF THE ACTIVITIES WHICH
YOU MENTIONED IS GOVERNED BY PARAGRAPH 2 OF ANNEX II
OF THE QUADRIPARTITE AGREEMENT, AS CLARIFIED IN
PARAGRAPHS A) AND B) OF THE LETTER OF 3 SEPTEMBER 1971
FROM THE THREE AMBASSADORS TO THE FEDERAL CHANCELLOR
REFERRED TO ABOVE; NOR HAVE ANY ACTIONS OF THE GOVERNMENT
OF THE FRG BEEN CARRIED OUT IN EXERCISE OF DIRECT STATE
AUTHORITY OVER THE WSB. PARLIAMENTS AND GOVERNMENTS
OF THE LAENDER OF THE FRG AND FRAKTIONEN OF THOSE
PARLIAMENTS ARE NOT STATE BODIES OF THE FEDERAL REPUBLIC
OF GERMANY. THEY DO NOT FALL WITHIN THE TERMS OF
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PARAGRAPH E) OF THE LETTER OF 3 SEPTEMBER 1971 REFERRED
TO ABOVE. IT GOES MOREOVER WITHOUT SAYING THAT SUCH
GROUPS ARE NOT LEGALLY COMPETENT TO EXERCISE ANY
AUTHORITY OVER BERLIN. NONE OF THESE ACTIVITIES TO
WHICH YOU HAVE REFERRED OFFENDS AGAINST ANY SPECIFIC OR

GENERAL PROVISION OF THE QUADRIpartite AGREEMENT. (BEGIN BRACKETS) YOU WILL RECALL THAT A PROPOSAL BY THE SOVIET REPRESENTATIVE DURING THE NEGOTIATIONS OF THE QUADRIpartite AGREEMENT THAT REFERENCE SHOULD BE MADE TO LAENDER ACTIVITIES IN THE WESTERN SECTORS OF BERLIN WAS EXPRESSLY REJECTED BY THE THREE POWERS AND NO SUCH REFERENCE WAS INCLUDED IN THE QUADRIpartite AGREEMENT. (END BRACKETS)

6. FIFTHLY, THE VIEWS OF THE THREE POWERS CONCERNING THE PROPRIETY OF THE PARTICIPATION OF BERLIN OFFICIALS IN MEETINGS WITH THEIR COUNTERPARTS FROM THE LAENDER OF THE FRG, AND OF HOLDING SUCH MEETINGS ON OCCASION IN THE WSB, WERE EXPRESSED IN THE REPLY TO THE SOVIET STATEMENT OF OCTOBER 12, 1977, REGARDING THE MEETING OF LAENDER MINISTER-PRESIDENTS IN THE WESTERN SECTORS OF BERLIN.

7. SIXTHLY, WITH REGARD TO YOUR STATEMENT OF 18 JANUARY CONCERNING THE MEETING IN BERLIN OF THE CDU/CSU FRAKTION OF THE BUNDESTAG, THE THREE ALLIED AUTHORITIES ARE UNABLE TO ACCEPT YOUR CONTENTION THAT BUNDESTAG FRAKTIONEN SHOULD MEET IN THE WSB ONLY TO DISCUSS MATTERS PERTAINING TO THOSE SECTORS. IN THIS CONNECTION I WOULD REFER YOU TO THE RELEVANT DISTINCTION BETWEEN COMMITTEES AND FRAKTIONEN OF THE BUNDESRAT AND BUNDESTAG WHICH IS CONTAINED IN PARAGRAPH B) OF THE LETTER OF THE THREE AMBASSADORS TO THE FEDERAL CONFIDENTIAL

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CHANCELLOR OF 3 SEPTEMBER 1971 REFERRED TO ABOVE.

8. YOUR RECENT COMPLAINTS APPEAR TO IMPLY THAT YOU CONSIDER THAT THE ACTIVITIES WHICH YOU MENTIONED, BECAUSE THEY ARE NOT SPECIFICALLY PROVIDED FOR IN THE QA, ARE PRECLUDED FROM TAKING PLACE. I AM INSTRUCTED TO SAY THAT THE THREE POWERS REJECT THAT CONTENTION. THE ACTIVITIES TO WHICH YOU HAVE REFERRED IN THESE RECENT STATEMENTS ARE RATHER ASPECTS OF THE TIES BETWEEN THE WESTERN SECTORS OF BERLIN AND THE FRG WHICH HAVE BEEN AUTHORIZED BY THE THREE POWERS IN THE EXERCISE OF THEIR SUPREME AUTHORITY IN THE WESTERN SECTORS OF BERLIN, IN FULL ACCORDANCE WITH PART II B OF THE QUADRIpartite AGREEMENT.

9. THERE IS ACCORDINGLY NO JUSTIFICATION WHATEVER FOR THE DESCRIPTION OF THESE EVENTS, IN YOUR STATEMENT OF 29 NOVEMBER AS A "CAMPAIGN OF PROVOCATION."

END TEXT.

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2. AS THE DEPARTMENT WILL RECALL, TYUTYUNOV BEGAN HIS NOVEMBER 29 DEMARCHE WITH THE ALLEGATION THAT A "CAMPAIGN OF PROVOCATION" WAS UNDER WAY AND THEN ENUMERATED A SERIES OF ACTIVITIES AND PRACTICES TO SUPPORT THAT ALLEGATION. WHILE THE ABOVE TEXT IS LONG, THE FEELING OF THE BONN GROUP WAS THAT IT WAS APPROPRIATE TO TAKE UP HIS EXAMPLES ONE BY ONE AND DISMISS THEM, ENDING WITH THE REJECTION OF THE IDEA OF A CAMPAIGN. DISCUSSION OF THE MORE SIGNIFICANT ELEMENTS OF THE DRAFT IS SUMMARIZED BELOW.

3. "LAND BERLIN." VON BRAUNMUEHL (FRG) QUESTIONED THE DESIRABILITY OF INCLUDING PARAGRAPH THREE OF THE REPLY, CONCERNING REFERENCES TO "LAND BERLIN" IN FEDERAL LEGISLATION. HE NOTED THAT THIS WAS A SENSITIVE POINT WITH THE SOVIETS AND ADDED (WITHOUT ELABORATION) THAT
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SOME THOUGHT WAS BEING GIVEN TO THE POSSIBILITY OF MAKING A CONCESSION ON THIS POINT. HE DID NOT INSIST ON DROPPING THE PARAGRAPH, AND THE CONSENSUS WAS THAT IT WAS DESIRABLE TO INCLUDE IT IF THE REPLY OTHERWISE WAS TO DISPOSE OF EACH OF TYUTYUNOV'S ALLEGATIONS.

4. REFERENCE TO NEGOTIATING HISTORY OF THE QA. THE BRACKETED SENTENCE AT THE END OF PARAGRAPH FIVE REPRESENTS ALL THAT IS LEFT OF THE FRG DESIRE TO POINT OUT TO THE SOVIETS THAT IN THEIR RECENT PROTESTS THEY HAVE ATTEMPTED TO ENFORCE POSITIONS WHICH THEY WERE UNABLE TO ACHIEVE DURING THE QA NEGOTIATIONS. ALL THREE ALLIED REPS EXPRESSED RESERVATIONS ABOUT THE DESIRABILITY OF CITING THE NEGOTIATING HISTORY. THE US REP STATED THAT, WHILE IT WAS TRUE THAT THE SOVIETS SEEMED TO BE GOING BACK TO THEIR NEGOTIATING POSITIONS, TELLING THEM WE WERE AWARE OF THAT FACT DID LITTLE TO STRENGTHEN THE POSITION WE WERE EXPRESSING IN OUR REPLY. MOREOVER, THERE SEEMED TO BE CERTAIN HAZARDS IN BEGINNING A DIALOGUE ON WHAT WAS SAID IN THE NEGOTIATIONS. HE ALSO NOTED THAT, IF WE CHOSE AT SOME POINT TO CHALLENGE THIS SOVIET REVERSION TO NEGOTIATING POSITIONS, IT MIGHT BE MORE IMPORTANT TO DO SO IN A BROADER CONTEXT DEALING PARTICULARLY WITH THE QUESTION OF THE FEDERAL PRESENCE IN BERLIN, RATHER THAN ON THE LIMITED POINT OF LAENDER ACTIVITIES THERE.

5. VON BRAUNMUEHL SAID HE WOULD WELCOME IT IF AN OPPORTUNITY COULD BE FOUND TO CHALLENGE THE SOVIETS IN THIS BROADER CONTEXT. NEVERTHELESS, HE WOULD ALSO HOPE THAT WE WOULD BEGIN TO CALL THE SOVIET HAND BY RETAINING EVEN THIS LIMITED MARKER. REFERRING TO THE RECENT PUBLICATION OF DOCUMENTS ON THE QA BY THE USSR
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AND THE GDR, VON BRAUNMUEHL SAID THERE MIGHT BE A SECOND VOLUME AND THAT IT WAS WORTHWHILE TO HAVE ALLIED POSITIONS FIRMLY ON THE RECORD. ALL THREE ALLIED REPS PLACED BRACKETS AROUND THE SENTENCE BUT AGREED TO REPORT THE FRG PROPOSAL FOR CONSIDERATION BY CAPITALS.

6. "WHAT IS NOT PROHIBITED IS PERMITTED." THE BRITISH REDRAFT OF THE OPENING TWO SENTENCES OF PARAGRAPH EIGHT OF THE TEXT, DESIGNED TO FORGE A COMPROMISE AFTER THE PREVIOUS BONN GROUP DISCUSSION REPORTED IN REFTEL (C), READ AS FOLLOWS:

"YOUR RECENT COMPLAINTS APPEAR TO IMPLY THAT
ACTIVITIES WHICH ARE NOT SPECIFICALLY PERMITTED
BY THE QA ARE PROHIBITED. I AM INSTRUCTED TO
SAY THAT THE THREE POWERS REJECT THAT CONTENTION."

7. VON BRAUNMUEHL COMMENDED THE DRAFT AS A GOOD EFFORT
AIMED AT MEETING FRG WISHES, EVEN THOUGH IT DID NOT
FULLY MEET THE FRG HOPE FOR A CLEAR-CUT STATEMENT THAT
THAT WHICH WAS NOT PROHIBITED BY THE QA WAS PERMITTED.
HE WAS PREPARED TO RECOMMEND ACCEPTANCE OF THE UK
DRAFT. THE FRENCH REP (RICHARD) RECALLED EARLIER
DISCUSSIONS AMONG THE MISSIONS IN BERLIN ON THE DANGERS
OF ARGUING THAT PRINCIPLE OF INTERPRETATION, IN
PARTICULAR BECAUSE OF THE LIMITATIONS IN AGREED MINUTE II
OF THE QA ON ACTIVITIES OF SOVIET OFFICIALS AND
COMMERCIAL PERSONNEL IN WEST BERLIN. THE SOVIETS MIGHT
USE OUR ARGUMENT TO CONTEND THAT SUCH OFFICIALS WERE
PERMITTED TO DO ANYTHING WHICH WAS NOT PROHIBITED
IN AGREED MINUTE II. RICHARD SAID HE WAS MERELY
RAISING THIS AS A QUESTION, NOT SPECIFICALLY AS AN

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OBJECTION TO THE UK DRAFT.

8. THE US REP INITIALLY ARGUED THAT IT WOULD BE SUFFICIENT TO STATE THAT NONE OF THE ACTIVITIES CITED BY TYUTYUNOV IN ANY WAY CONTRAVENED EITHER THE LETTER OR THE SPIRIT OF THE QA AND THAT THEY WERE, ON THE CONTRARY, ASPECTS OF THE TIES. HE SUGGESTED THAT THIS WOULD BE SUFFICIENT TO REFUTE TYUTYUNOV'S ALLEGATIONS THAT SUCH ACTIVITIES WERE PROHIBITED WITHOUT ENGAGING THE SOVIETS IN A DEBATE OVER HOW THE QA WAS TO BE INTERPRETED. GIVEN THE PERSISTENCE OF VON BRAUNMUEHL'S ARGUMENTS, HOWEVER, AND THE GENERAL DISPOSITION OF THE UK AND FRENCH REPS TO TRY OUT THE PROPOSAL ON CAPITALS, THE US REP EVENTUALLY AGREED TO RECOMMEND THE PROPOSAL IF IT WERE MODIFIED TO READ AS IT APPEARS IN PARAGRAPH EIGHT OF THE ABOVE TEXT. HE NOTED, ON THE BASIS OF REFTL (A), THAT THE DEPARTMENT WOULD BE UNABLE
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TO ACCEPT A GENERAL DENIAL CONCERNING "ACTIVITIES" BUT THAT IT MIGHT BE POSSIBLE TO AGREE TO A DENIAL LIMITED TO THE SPECIFIC ACTIVITIES TO WHICH TYUTYUNOV HAD REFERRED. THE REVISED WORDING IS BASED ON THE 1974 REPLY CONCERNING A MEETING OF THE BUNDESTAG PRESIDUM AND COUNCIL OF ELDERS QUOTED IN PARAGRAPH 15 OF REF (C) AND REAFFIRMED BY THE DEPARTMENT IN REF (A).

9. ACTION REQUESTED: THAT THE DEPARTMENT PROVIDE GUIDANCE ON THE ACCEPTABILITY OF THE BRACKETED LANGUAGE IN PARAGRAPH FIVE OF THE ABOVE TEXT AND, SUBJECT TO AGREEMENT ON THAT PARAGRAPH, APPROVE THE AD REF TEXT FOR DELIVERY BY THE CHAIRMAN POLAD IN BERLIN.
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Message Attributes

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